

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

SOUTH CAROLINA COASTAL
CONSERVATION LEAGUE, *et al.*,

Plaintiffs,

v.

ANDREW R. WHEELER, *et al.*,

Defendants.

AMERICAN FARM BUREAU
FEDERATION, *et al.*,

Intervenor-Defendants.

No. 2:20-cv-01687-DCN

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 7.03, the Plaintiff conservation groups in this action—South Carolina Coastal Conservation League, Charleston Waterkeeper, American Rivers, Chattahoochee Riverkeeper, Clean Water Action, Defenders of Wildlife, Environment America, Friends of the Rappahannock, James River Association, National Wildlife Federation, North Carolina Coastal Federation, North Carolina Wildlife Federation, Public Employees for Environmental Responsibility, and Roanoke River Basin Association—hereby move for summary judgment on all of their claims.

For the reasons noted in the accompanying memorandum, the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers flouted the fundamental requirements of the Administrative Procedure Act in adopting the regulation Plaintiffs challenge in this case—

a regulation that imposes unprecedented restrictions on Clean Water Act protections for the Nation's streams, wetlands, lakes, and other waters. See Final Rule, "The Navigable Waters Protection Rule: Definition of 'Waters of the United States,'" 85 Fed. Reg. 22,250 (Apr. 21, 2020) ("Replacement Rule" or "Rule"). Because the Rule undercuts the sole objective of the Clean Water Act, it is also illegal under the Act and Supreme Court precedent.

This Court should accordingly grant summary judgment to Plaintiffs and vacate the challenged Rule. See Fed. R. Civ. P. 56(a) (providing that a "court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law"); 5 U.S.C. § 706(2)(A), (C) (a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right").

Respectfully submitted this the 10th day of July 2020.

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